

**REMARKS****INTRODUCTION:**

In accordance with the foregoing, claim 2 has been canceled without prejudice or disclaimer, and claims 1, 3, and 24 have been amended. No new matter is being presented, and approval and entry are respectfully requested.

Claims 1, 3-13, and 24-31 are under consideration. Claims 14-23 are withdrawn. Reconsideration is respectfully requested.

**REJECTION UNDER 35 U.S.C. §102:**

In the Office Action, at pages 2-3, claims 1, 4-7, 9, 24-27 and 30 were rejected under 35 U.S.C. §102(b) as being anticipated by Japanese reference 2001-091143. This rejection is traversed and reconsideration is requested.

Claim 1 has been amended to include the features of claim 2. Claim 2 has been cancelled without prejudice or disclaimer.

Japanese reference 2001-091143 discloses a refrigerator in which the inventory stock status of the information about a meal of predetermined individuals, wherein information on health condition and food preferences is considered, and wherein the refrigerator can determine the menu of a meal automatically (paragraph 3 of the detailed description). On the occasion of the use of the refrigerator concerning the 2001-091143 invention, those who prepare a meal input individual humanity news, including discernment data such as "father," "mother," age, sex, height, weight, momentum, health condition, favorite food, and the like (paragraphs 5 and 23, detailed description). Thus, the Japanese reference 2001-091143 discloses that those who prepare meals utilize the refrigerator to automatically determine the menu of a meal for predetermined persons.

It is respectfully submitted that Japanese reference 2001-091143 fails to teach or suggest, even inherently, a refrigerator having a cooling compartment comprising: a memory storing user data about a user and food item data on food items stored in the cooling compartment; a user recognition device recognizing a present user; a controller reading the food item data corresponding to the user data relevant to the present user recognized by the user recognition device from the memory; and a display displaying the food item data read by the controller, wherein the user recognition device includes a biometric technology, as is recited by amended claim 1.

Thus, amended claim 1 is submitted not to be anticipated under 35 U.S.C. §102(b) by Japanese reference 2001-091143. Since claims 4-7 and 9 depend from amended claim 1,

claims 4-7 and 9 are submitted not to be anticipated under 35 U.S.C. §102(b) by Japanese reference 2001-091143 for at least the reasons that amended claim 1 is submitted not to be anticipated under 35 U.S.C. §102(b) by Japanese reference 2001-091143.

Also, Japanese reference 2001-091143 fails to teach or suggest, even inherently, a user-interactive refrigerator having a cooling compartment comprising: a user recognition device; and a health information system, reading, storing and displaying health information of a present user and data on food items stored in the cooling compartment corresponding to the health information of the present user, wherein the user recognition device includes a biometric technology, as is recited by amended claim 24.

Thus, amended claim 24 is submitted not to be anticipated under 35 U.S.C. §102(b) by Japanese reference 2001-091143. Since claims 25-27 and 30 depend from amended claim 24, claims 25-27 and 30 are submitted not to be anticipated under 35 U.S.C. §102(b) by Japanese reference 2001-091143 for at least the reasons that amended claim 24 is submitted not to be anticipated under 35 U.S.C. §102(b) by Japanese reference 2001-091143.

#### **REJECTION UNDER 35 U.S.C. §103:**

A. In the Office Action, at page 3, claims 2-3 were rejected under 35 U.S.C. §103(a) as being unpatentable over Japanese reference 2001-091143 as applied to claim 1 above and further in view of Rivalto (USPN 6,690,997; hereafter, Rivalto). The reasons for the rejection are set forth in the Office Action and therefore not repeated. The rejection is traversed and reconsideration is requested.

Claim 1 has been amended to include the features of claim 2. Claim 2 has been cancelled without prejudice or disclaimer.

It is respectfully submitted that Rivalto discloses a package delivery and pick-up system that does not store user data about a user and food item data on food items stored in a cooling compartment wherein the food item data have a correspondence with the user data, as is disclosed by amended claim 1 of the present invention. Thus, Rivalto does not discuss a same type of usage as is discussed in amended claim 1 of the present invention.

Rivalto discloses a system and method for automated package and pick-up that include at least one package portal located in a delivery and pick-up station to receive and dispense packages from the station, wherein biometric information may be used to authenticate the identity of an intended recipient. Rivalto does not teach or suggest a refrigerator having a cooling compartment comprising: a memory storing user data about a user and food item data on food items stored in the cooling compartment; a user recognition device recognizing a present user wherein the user recognition device includes a biometric technology; a controller reading the

food item data corresponding to the user data relevant to the present user recognized by the user recognition device from the memory; and a display displaying the food item data read by the controller.

The genius of invention is often a combination of known elements which in hindsight seems preordained. To prevent hindsight invalidation of patent claims, the law requires some "teaching, suggestion or reason" to combine cited references. Gambro Lundia AB v. Baxter Healthcare Corp., 110 F.3d 1573, 1579, 42 USPQ2d 1378, 1383 (Fed. Cir. 1997). When the art in question is relatively simple, as is the case here, the opportunity to judge by hindsight is particularly tempting. Consequently, the tests of whether to combine references need to be applied rigorously. See In re Dembiczak, 175 F.3d 994, 999, 50 USPQ2d 1614, 1617 (Fed. Cir. 1999), limited on other grounds by In re Gartside, 203 F.3d 1305, 53 USPQ2d 1769 (2000) (guarding against falling victim to the insidious effect of a hindsight syndrome wherein that which only the inventor taught is used against its teacher).

It is respectfully submitted that the courts have held that the Examiner may not suggest modifying references using the present invention as a template absent a suggestion of the desirability of the modification in the prior art. *In re Fitch*, 23 U.S.P.Q.2d 1780, Fed Cir. 1992. Something in the prior art as a whole must suggest the desirability, and thus, the obviousness, of making the combination. *Alco Standard Corp. v. Tennessee Valley Authority*, 808 F. 2d 1490, 1 U.S.P.Q. 2d 1337 (Fed. Cir. 1986). When a rejection depends on a combination of prior art references, there must be some teaching, suggestion or motivation to combine the references. *In re Geiger*, 815 F.2d 686, 688 2 U.S.P.Q.2d 1276, 1278 (Fed. Cir. 1987). It is respectfully submitted that there is no teaching or suggestion of combining Japanese reference 2001-091143 with Rivalto.

Thus, it is respectfully submitted that amended claim 1 is patentable under 35 U.S.C. §103(a) over Japanese reference 2001-091143 and/or Rivalto (USPN 6,690,997), alone or in combination. Since claim 3 has been amended to depend from amended claim 1, amended claim 3 is submitted to be patentable under 35 U.S.C. §103(a) over Japanese reference 2001-091143 and/or Rivalto (USPN 6,690,997), alone or in combination, for at least the reasons that amended claim 1 is submitted to be patentable under 35 U.S.C. §103(a) over Japanese reference 2001-091143 and/or Rivalto (USPN 6,690,997), alone or in combination.

**B.** In the Office Action, at pages 3-4, claims 10-13 and 28-29 were rejected under 35 U.S.C. §103(a) as being unpatentable over Japanese reference 2001-091143 as applied to claim 1 above and further in view of Maeda (USPN 6,519,963; hereafter, Maeda). The reasons for the rejection are set forth in the Office Action and therefore not repeated. The rejection is traversed and reconsideration is requested.

It is respectfully submitted that claim 10 includes the limitations of the claims from which

it depends, i.e., claim 10 discloses a refrigerator having a cooling compartment comprising: a memory storing user data about a user and food item data on food items stored in the cooling compartment; a user recognition device recognizing a present user wherein the user recognition device includes a biometric technology; a controller reading the food item data corresponding to the user data relevant to the present user recognized by the user recognition device from the memory; a display displaying the food item data read by the controller; and a food item information input device inputting information data on the food items, wherein the food item information input device comprises a bar code reader reading a bar code on the food items stored in the cooling compartment. Though Maeda recites a semiconductor housed in a cooler for faster operation, Maeda fails to teach or suggest the refrigerator having a user recognition device recognizing a present user wherein the user recognition device includes a biometric technology, as is recited by claim 10. Thus claim 10 is submitted to be patentable under 35 U.S.C. §103(a) over Maeda (USPN 6,519,963).

Japanese reference 2001-091143 discloses a refrigerator in which the inventory stock status of the information about a meal of predetermined individuals, wherein information on health condition and food preferences is considered, and wherein the refrigerator can determine the menu of a meal automatically (paragraph 3 of the detailed description). On the occasion of the use of the refrigerator concerning the 2001-091143 invention, those who prepare a meal input individual humanity news, including discernment data such as "father," "mother," age, sex, height, weight, momentum, health condition, favorite food, and the like (paragraphs 5 and 23, detailed description). However, Japanese reference 2001-091143 fails to teach or suggest using a user recognition device recognizing a present user wherein the user recognition device includes a biometric technology, as is disclosed in claim 10. Thus, claim 10 is submitted to be patentable under 35 U.S.C. §103(a) over Japanese reference 2001-091143.

Hence, it is respectfully submitted that claim 10 is patentable under 35 U.S.C. §103(a) over Japanese reference 2001-091143 and/or Maeda (USPN 6,519,963), alone or in combination.

Similarly, claim 11 includes the limitations of claims 1 and 9, i.e., claim 11 discloses a refrigerator having a cooling compartment comprising: a memory storing user data about a user and food item data on food items stored in the cooling compartment; a user recognition device recognizing a present user wherein the user recognition device includes a biometric technology; a controller reading the food item data corresponding to the user data relevant to the present user recognized by the user recognition device from the memory; a display displaying the food item data read by the controller, a food item information input device inputting information data on the food items, and a food item information deleting device recognizing the food items which are taken out from the cooling compartment, wherein the controller deletes the food item data on

the food items read by the food item information deleting device from the memory. Though Maeda recites a semiconductor housed in a cooler for faster operation, Maeda fails to teach or suggest the above-described refrigerator having a user recognition device recognizing a present user wherein the user recognition device includes a biometric technology, as is disclosed by claim 11. Hence, claim 11 is submitted to be patentable under 35 U.S.C. §103(a) over Maeda (USPN 6,519,963).

Japanese reference 2001-091143 discloses a refrigerator in which the inventory stock status of the information about a meal of predetermined individuals, wherein information on health condition and food preferences is considered, and wherein the refrigerator can determine the menu of a meal automatically (paragraph 3 of the detailed description). However, Japanese reference 2001-091143 does not teach or suggest a refrigerator having a cooling compartment comprising: a memory storing user data about a user and food item data on food items stored in the cooling compartment; a user recognition device recognizing a present user wherein the user recognition device includes a biometric technology; a controller reading the food item data corresponding to the user data relevant to the present user recognized by the user recognition device from the memory; a display displaying the food item data read by the controller, a food item information input device inputting information data on the food items, and a food item information deleting device recognizing the food items which are taken out from the cooling compartment, wherein the controller deletes the food item data on the food items read by the food item information deleting device from the memory. However, Japanese reference 2001-091143 does not teach or suggest the refrigerator of claim 11. Thus, it is respectfully submitted that claim 11 is patentable under 35 U.S.C. §103(a) over Japanese reference 2001-091143.

Hence, it is respectfully submitted that claim 11 is patentable under 35 U.S.C. §103(a) over Japanese reference 2001-091143 and/or Maeda, alone or in combination.

Since claim 12 depends from claim 11, claim 12 is submitted to be patentable under 35 U.S.C. §103(a) over Japanese reference 2001-091143 and/or Maeda (USPN 6,519,963), alone or in combination, for at least the reasons that claim 11 is submitted to be patentable under 35 U.S.C. §103(a) over Japanese reference 2001-091143 and/or Maeda (USPN 6,519,963), alone or in combination.

Similarly, claim 13 includes the limitations of claim 1, i.e., claim 13 discloses a refrigerator having a cooling compartment comprising: a memory storing user data about a user and food item data on food items stored in the cooling compartment; a user recognition device recognizing a present user wherein the user recognition device includes a biometric technology; a controller reading the food item data corresponding to the user data relevant to the present user recognized by the user recognition device from the memory; and a display displaying the food item data read by the controller, wherein the food item data includes at least one among a

list of food items stored in the cooling compartment, a storage period, the number of each food item, a storage position, and a nutrient of each food item.

Japanese reference 2001-091143 discloses a refrigerator in which the inventory stock status of the information about a meal of predetermined individuals, wherein information on health condition and food preferences is considered, and wherein the refrigerator can determine the menu of a meal automatically (paragraph 3 of the detailed description). However, Japanese reference 2001-091143 does not teach or suggest the refrigerator of claim 13 (see above). Thus, it is respectfully submitted that claim 13 is patentable under 35 U.S.C. §103(a) over Japanese reference 2001-091143.

Though Maeda recites a semiconductor housed in a cooler for faster operation, Maeda fails to teach or suggest the refrigerator having a user recognition device recognizing a present user wherein the user recognition device includes a biometric technology, as is recited by claim 13. Hence, claim 13 is submitted to be patentable under 35 U.S.C. §103(a) over Maeda (USPN 6,519,963).

Thus, it is respectfully submitted that claim 13 is patentable under 35 U.S.C. §103(a) over Japanese reference 2001-091143 and/or Maeda, alone or in combination.

Similarly, claim 28 includes the limitations of claim 24, i.e., claim 28 recites a user-interactive refrigerator having a cooling compartment comprising: a user recognition device; and a health information system, reading, storing and displaying health information of a present user and data on food items stored in the cooling compartment corresponding to the health information of the present user, wherein the user recognition device includes a biometric technology, wherein the food item information input device includes a bar code reader reading a bar code prepared on the food items stored in the cooling department.

Japanese reference 2001-091143 discloses a refrigerator in which the inventory stock status of the information about a meal of predetermined individuals, wherein information on health condition and food preferences is considered, and wherein the refrigerator can determine the menu of a meal automatically (paragraph 3 of the detailed description). However, Japanese reference 2001-091143 does not teach or suggest the refrigerator of claim 28 (see above). Thus, it is respectfully submitted that claim 28 is patentable under 35 U.S.C. §103(a) over Japanese reference 2001-091143.

Though Maeda recites a semiconductor housed in a cooler for faster operation, Maeda fails to teach or suggest the refrigerator having a user recognition device recognizing a present user wherein the user recognition device includes a biometric technology, as is recited by claim 28. Hence, claim 28 is submitted to be patentable under 35 U.S.C. §103(a) over Maeda (USPN 6,519,963).

Thus, it is respectfully submitted that claim 28 is patentable under 35 U.S.C. §103(a) over

Japanese reference 2001-091143 and/or Maeda, alone or in combination.

Similarly, claim 29 includes the limitations of claim 24, i.e., claim 29 discloses a user-interactive refrigerator having a cooling compartment comprising: a user recognition device; and a health information system, reading, storing and displaying health information of a present user and data on food items stored in the cooling compartment corresponding to the health information of the present user, wherein the user recognition device includes a biometric technology wherein the health information system further includes: a food item information deleting device recognizing the food items which are taken out from the cooling compartment, wherein the controller deletes the food item data on the food items read by the food item information deleting device from the memory.

Japanese reference 2001-091143 discloses a refrigerator in which the inventory stock status of the information about a meal of predetermined individuals, wherein information on health condition and food preferences is considered, and wherein the refrigerator can determine the menu of a meal automatically (paragraph 3 of the detailed description). However, Japanese reference 2001-091143 does not teach or suggest the refrigerator of claim 29 (see above). Thus, it is respectfully submitted that claim 29 is patentable under 35 U.S.C. §103(a) over Japanese reference 2001-091143.

Though Maeda recites a semiconductor housed in a cooler for faster operation, Maeda fails to teach or suggest the refrigerator having a user recognition device recognizing a present user wherein the user recognition device includes a biometric technology, as is recited by claim 29. Hence, claim 29 is submitted to be patentable under 35 U.S.C. §103(a) over Maeda (USPN 6,519,963).

Thus, it is respectfully submitted that claim 29 is patentable under 35 U.S.C. §103(a) over Japanese reference 2001-091143 and/or Maeda, alone or in combination.

#### **CLAIMS OBJECTED TO:**

Claims 8 and 31 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 8 and 31 depend from amended claims 1 and 24, respectively. Amended claims 1 and 24 are submitted to be in allowable form. Thus, claims 8 and 31 are submitted to be in allowable form for at least the reasons that amended claims 1 and 24 are submitted to be in allowable form.

#### **CONCLUSION:**

In accordance with the foregoing, it is respectfully submitted that all outstanding

objections and rejections have been overcome and/or rendered moot, and further, that all pending claims patentably distinguish over the prior art. Thus, there being no further outstanding objections or rejections, the application is submitted as being in condition for allowance which action is earnestly solicited.

If the Examiner has any remaining issues to be addressed, it is believed that prosecution can be expedited by the Examiner contacting the undersigned attorney for a telephone interview to discuss resolution of such issues:

If there are any underpayments or overpayments of fees associated with the filing of this Amendment, please charge and/or credit the same to our Deposit Account No. 19-3935.

Respectfully submitted,

STAAS & HALSEY LLP

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